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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

RED HAT, INC.,

Plaintiff,

v.

VIRTAMOVE CORP.,

Defendant.

Case No. 5:24-cv-04740-PCP

**DEFENDANT VIRTAMOVE'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF ITS
PROPOSED SUR-REPLY TO
PLAINTIFF RED HAT'S REPLY IN
SUPPORT OF ITS MOTION FOR
JURISDICTIONAL DISCOVERY**

Jury Trial Demanded

Judge Hon. P. Casey Pitts
Location: Courtroom 8, 4th Floor

1 Pursuant to Civil L.R. 7-11 and 79-5, Defendant VirtaMove brings this administrative
2 motion to file under seal certain portions of its proposed sur-reply opposing Plaintiff Red Hat's
3 motion for jurisdictional discovery and portions of one exhibit filed in support of the same.

4 As this Court has recognized, there is "a 'strong presumption in favor of access' to court
5 records." *Apple Inc. v. Rivos, Inc.*, No. 22-cv-02637-PCP, 2024 WL 748394, at *1 (N.D. Cal. Feb.
6 23, 2024) (Pitts, J.) (quoting *Kamakana v. City & Cnty. of Honolulu*, 47 F.3d 1172, 1178 (9th Cir.
7 2006)). "To overcome this strong presumption, a party who wishes to seal a court record must
8 generally 'articulate compelling reasons supported by specific factual findings ... that outweigh the
9 general history of access and the public policies favoring disclosure.'" *Id.* (quoting *Kamakana*, 47
10 F.3d at 1178-79)) (ellipses in *Apple*). "Under Civil Local Rule 79-5(c)(1) and (f)(3), the
11 party seeking to seal must provide 'a specific statement' of the reasons for doing so, explaining
12 the interests that warrant sealing and the injury that will otherwise result." *Id.*

13 The portions of the proposed sur-reply and the portions of the exhibit that VirtaMove
14 seeks to seal contain references to a company and the type of services that company provides to
15 VirtaMove. VirtaMove has a contractual obligation to keep the terms and conditions of its contract
16 with that company confidential. Declaration of Amy E. Hayden in Support of Defendant
17 VirtaMove's Administration Motion to File Under Seal Portions of its Proposed Sur-Reply ¶2.
18 There are therefore "legitimate private ... interests that warrant sealing." *See* Civil L.R. 79-
19 5(c)(1)(i). If sealing were to be denied here, "the injury that will result" is that confidential
20 information would be made public, contrary to the expectations of the parties to the contract, which
21 could chill the relationship between those parties because such disclosure is contrary to the clear
22 expectations they have under the contract they entered into. *See* Civil L.R. 79-5(c)(1)(ii). Thus,
23 there is no "less restrictive alternative to sealing" that would be sufficient here. *See* Civil L.R. 79-
24 5(c)(1)(iii).

25 For the foregoing reasons, VirtaMove respectfully requests that the Court grant its
26 administrative motion to file under seal.

RUSS, AUGUST & KABAT

Dated: November 14, 2024

Respectfully submitted,

/s/ Amy E. Hayden

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via electronic mail on November 14, 2024.

/s/ Amy E. Hayden

Amy E. Hayden

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